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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,740	02/14/2002	Eugene Jarvis	3079.010	3485

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Max Shaftal
PATZIK, FRANK & SAMOTNY LTD.
Suite 900
150 South Wacker Drive
Chicago, IL 60606

EXAMINER

BROCKETTI, JULIE K

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 01/09/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/077,740

Applicant(s)

JARVIS ET AL.

Examiner

Julie K Brockett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-10 and 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 6 and 15 recites the limitation "the player" in the preamble.

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carrico et al., U.S. Patent No. 6,416,407 B1 in view of Roberts, U.S. Patent No. 5,636,843. Carrico et al. discloses a method for playing a draw poker game on a video draw poker gaming machine including initially dealt cards, an opportunity for the player to hold at least one of said initially dealt cards and a

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final hand composition. A computing device is used for implement the game and includes a display screen and a microprocessor in communication with the screen display. A selection device is in communication with the microprocessor for providing means by which the player interacts with the computing device. A power supply is also in electrical communication with the screen display, the microprocessor and the selection device for providing power thereto (See Carrico Fig. 2; col. 4 lines 12-29). A first wager is placed on whether a final hand composition will match one of a plurality of preselected combination of cards (See Carrico col. 4 lines 19-22). A hand of initially dealt cards is dealt to a player and displayed on the screen display (See Carrico Fig. 2; col. 4 lines 30-32). The player then analyzes the dealt cards and undealt cards to determine possible final hand compositions. The player selects none, one or more held cards from said hand of dealt cards (See Carrico col. 5 lines 13-16). One additional card is dealt to the player to replace each card not held in order to provide a final hand composition. (See Carrico col. 5 lines 17-22). It is then determined if the final hand matches one of the plurality of preselected combination of cards as to the first wager (See col. 5 lines 23-26). A card determining means is in communication with the computing device for determining in succession the composition of the initial hand of cards and for randomly determining the composition of the final hand of cards. The card determining means determines the composition of the final hand of cards and deals the cards needed to complete the hand so as to provide a payout to the

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player based on the composition of the final hand of cards (See Carrico col. 4 lines 33-67; col. 5). The poker game is 5-card draw poker (See Carrico col. 2 lines 55-59). At a certain stage of the game, i.e. after an initial deal of cards and discards, the player is offered an additional wagering opportunity based on a possible final hand composition, only if the player decides not to hold all the initially dealt cards and it is not impossible to improve the poker hand ranking of the initially dealt cards. The player must make a second wager for this opportunity. The held cards are automatically held upon acceptance of the second wager. Once cards are held and discarded ones replaced, it is then determined if the final hand composition matches a winning hand according to the second pay table. Consequently, the player makes a wager on the final composition of the player's hand after the initial deal but before the final draw. When the player decides to make this second wager, the wager is for an improved poker hand as compared to the hand of initially dealt cards (See Carrico col. 5 lines 32-67). Carrico lacks in disclosing this second betting opportunity as a proposition bet in which the outcome of the bet is determined separately from the initial wager.

Roberts teaches of placing proposition bets in the game of poker. Players are offered at least one proposition bet based on a possible final hand composition containing a specific card combination. Players may accept at least one proposition bet as a second wager if the proposition bet is offered (See Roberts col. 9 lines 1-19). The specific card combinations can be one or more

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of the following: royal flush, straight flush, straight, flush, full house, three of a kind, two pair and one pair (See Roberts col. 8 lines 25-34). The game then determines if the final hand composition matches any proposition bets that were placed if the proposition bets were offered and accepted. Furthermore, the final hand match is also determined with respect to a plurality of combination of cards as to the first wager. Consequently, the first wager and any prepositional wagers are redeemed independent of one another (See Roberts col. 10 lines 15-48). Furthermore, a card combination determining means for analyzing the hand of cards to determine possible final hands so as to provide the player with at least one proposition bet to select based on the composition of the final hand (See Roberts col. 8 lines 25-34; Fig. 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the method of placing prepositional bets in the game of poker in the invention of Carrico. By placing an additional bet as in the game of Carrico after the cards have been dealt but before the draw, a player can make an educated wager since they know what cards they already have and what cards they would need to draw in order to have a winning outcome.

Furthermore, players enjoy the opportunity to win more than one wager, by using the prepositional betting system of Roberts in the invention of Carrico, players could still win their initial wager as well as their second wager instead of merely adding the second wager to the first in which case if a winning outcome does not occur with regards to the second wager, the player

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automatically loses his first wager too. Consequently, by using the method of Roberts, players have more enjoyment in the game since they have two chances of winning instead of just one. Furthermore, players would be more inclined to place an additional wager if they knew that they were not automatically forfeiting their first wager.

Citation of Relevant Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Crawford, European Patent Application, EP 0981118 A2.

--Crawford discloses a computer method and system for playing a game using proposition wagers.

2. Webb, U.S. Patent Application Publication No. 2002/0074724 A1.

--Webb discloses a card game in which players may make a proposition wager after seen the first two cards of a three card poker hand.

3. Lo, U.S. Patent Application Publication No. 2001/0054797 A1.

--Lo discloses a card game in which players may make proposition bets based on a five-card stud poker hand.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Brockett whose telephone

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number is 703-308-7306. The examiner can normally be reached on M-Th
7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the
examiner's supervisor, Teresa Walberg SPE can be reached on 703-308-1327.
The fax phone number for the organization where this application or
proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this
application or proceeding should be directed to the receptionist whose
telephone number is 703-308-1148.



Julie K Brockett
Examiner
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